

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

MARVIN SPRY,

Petitioner,

v.

Civil Action No. 2:16-cv-5852
(Criminal No. 2:01-cr-0011)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is petitioner's motion to extend the time to file a motion under 28 U.S.C. § 2255, filed June 27, 2016, and petitioner's motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255, filed June 29, 2016. Also pending is respondent's motion to withdraw the referral to the magistrate judge, filed July 20, 2016.

This action was previously referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to the court of her Proposed Findings and Recommendations ("PF&R") for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).

On December 18, 2017, Magistrate Judge Eifert entered her PF&R recommending that the Section 2255 motion be denied as untimely, that the motion for extension of time and motion to withdraw referral be denied as moot, and that the matter be dismissed and removed from the docket of this court.

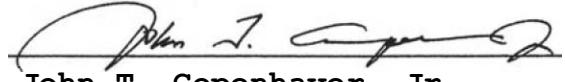
No objections having been filed, the petitioner has waived de novo review of the matter by this court.

It is, accordingly, ORDERED as follows:

1. Magistrate Judge Eifert's Proposed Findings and Recommendations be, and they hereby are, adopted and incorporated in full.
2. Petitioner's motion under 28 U.S.C. § 2255 be, and it hereby is, denied.
3. Petitioner's motion for extension of time to file a motion under 28 U.S.C. § 2255 be, and it hereby is, denied as moot.
4. Respondent's motion to withdraw referral to the magistrate judge be, and it hereby is, denied as moot.
5. This action be dismissed with prejudice and removed from the docket of this court.

The Clerk is directed to forward copies of this memorandum opinion and order to the petitioner, all counsel of record, and United States Magistrate Judge Cheryl A. Eifert.

DATED: June 15, 2018



John T. Copenhaver, Jr.
United States District Judge